

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

V.

JOHN WYSINGER,

Defendant.

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Case No. **09-30159-01-MJR**

ORDER

REAGAN, District Judge:

Before the Court is Defendant John Wysinger's Motion to Supplement the Record on Appeal (Doc. 285). Defendant Wysinger seeks to have a videotape that was admitted into evidence at trial submitted to the Court of Appeals, where Defendant's appeal is pending. The tape (Govt's Trial Ex. 21, Disk 44) is of an interrogation of Defendant by DEA Agent Mike Rehg and Police Officer Wade Gummersheimer. At this juncture, the trial exhibit remains in the custody of the government, although Defendant proposes personally transmitting a copy of the videotape to the appellate court, if his motion is granted.

Circuit Rule 10(a) dictates that, within 14-days of the filing of an appeal, the parties must return all exhibits necessary to the appeal to the Clerk of Court, who in turn conveys the record to the Clerk of the Court of Appeals. A review of the record reveals that on January 25, 2011, the Clerk of the District Court transmitted the record on appeal to the Court of Appeals, obviously without the videotape.

Circuit Rule 10(b) permits a party to move to supplement the record, and any such motion is decided by the district court. Thus, Defendant Wysinger's motion is properly before the

Court. Defendant has shown good cause for supplementing the record on appeal with the videotape. However, in accordance with Circuit Rule 11(b)(2), the government will have to resubmit the videotape (Govt's Trial Ex. 21, Disk 44) to the Clerk of the District Court, and the Clerk will then convey the exhibit to the Clerk of the Court of Appeals.

IT IS THEREFORE ORDERED that Defendant Wysinger's motion to supplement the record (Doc. 285) is **GRANTED**, in that on or before **April 15, 2011**, the government shall file with the Clerk of Court the videotape of Defendant by DEA Agent Mike Rehg and Police Officer Wade Gummersheimer (Govt's Trial Ex. 21, Disk 44). Upon receipt to the videotape, in accordance with Circuit Rule 11(b)(2), the Clerk of Court shall transmit the videotape to the Clerk of the Court of Appeals as a supplement to the record on appeal in Defendant Wysinger's appeal (7th Cir. Case No. 10-3894).

IT IS SO ORDERED.

DATED: April 8, 2011

s/ Michael J. Reagan
MICHAEL J. REAGAN
UNITED STATES DISTRICT JUDGE